

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

GENERAL INSURANCE COMPANY)	
OF AMERICA,)	
Plaintiff,)	
)	
v.)	No. 08 CV 2787
)	
CLARK MALL CORP. d/b/a)	Judge Guzman
DISCOUNT MEGA MALL CORP.,)	
MARCOS I. TAPIA, JUAN E. BELLO,)	Magistrate Judge Ashman
JOSE L. GARCIA, LETICIA)	
HURTADO, YOUNG S. KO, MARIANO)	
KON, CHOONG I. KUAN, ROSA G.)	
MADRIGAL, HILDA MENDOZA,)	
MAN OK NO, HEE T. PARK, SUNG W.)	
PARK, MARIA L. ROMAN and)	
VICTOR H. VISOSO,)	
Defendants.)	

PROPOSED DISCOVERY PLAN

Pursuant to this Court's standing Order for initial appearances, counsel for the plaintiff has conferred with counsel for defendants to discuss the nature of their claims and the potential for prompt resolution. The parties now submit the following proposed discovery plan:

1. Status of Appearances

Defendants Discount Mega Mall Corp., Kyun Hee Park and Jennifer Park have appeared and filed their responsive pleadings. Defendant Clark Mall Corp. is of the opinion that it has not yet been served. Clark Mall Corp. has not appeared or filed a responsive pleading. Counsel for the remaining defendants accepted service for the remaining defendants, but no appearance has yet been filed on their behalf.

2. Nature of the Case.

This is an insurance declaratory judgment action concerning the duty to the plaintiff, General Insurance Company of America ("General") to defend and indemnify the

defendants, Clark Mall Corp. d/b/a Discount Mega Mall (“Clark”), Discount Mega Mall Corp., (“Discount”), Kyun Hee Park and Jennifer Park (collectively, the “Parks”) in an action brought against them for damages allegedly sustained by the remaining defendants, who were tenants of the Discount Mega Mall, as the result of a fire. General maintains that there is no coverage because the parties named in the underlying suit are not insureds under the General policy and because the property loss claimed by the underlying plaintiffs is property damage for property in the care, custody or control of the insureds, which is excluded in the General policy. The defendants, Discount and the Parks dispute this and have further brought counterclaims alleging that the loss is covered and seeking attorneys fees pursuant to Illinois Common Law in defending the underlying action in the Circuit Court of Cook County, Case No. 07 L 1255, in addition to attorneys’ fees pursuant to §155 of the Illinois Insurance Code, 215 ILCS 5/155, for allegedly vexatious and unreasonable conduct by General.

3. Subjects on Which Discovery May Be Needed

The parties anticipate that discovery may be needed concerning the corporate structure and relationships of Clark, Discount Mega Mall Corp., the named insured on the General Policy, and the Parks. Additionally, discovery will be needed concerning the extent to which the insureds had care, custody or control over tenants’ property when the mall was closed. Discount and the Parks also believe that discovery will be needed concerning General’s alleged vexatious and unreasonable conduct, but General believes this discovery should await the conclusion of motions concerning the merits of General’s coverage position, which could eliminate the need for such discovery.

4. Rule 26(a)(1) Disclosures

The parties propose that Rule 26(a)(1) disclosures be exchanged on or before August 11, 2008.

5. Discovery Plan

The following time limits and deadlines shall be applicable.

- A. All disclosures required by Rule 26(a)(1) shall be made on or before August 11, 2008.
- B. Any amendments to pleadings or actions to join other parties shall be filed on or before October 1, 2008.
- C. The parties shall file written discovery by August 11, 2008.
- D. Responses to written discovery will be filed by September 8, 2008.
- E. The cutoff for fact discovery shall be November 17, 2008.
- F. Dispositive motions shall be filed by December 22, 2008. If the parties believe that expert discovery will be needed, they may apply to the court for a schedule for expert discovery and the time for dispositive motions will be adjusted accordingly.

6. The parties with an appearance on file consent to assignment to the Magistrate Judge.

Respectfully submitted, this 9th day of July, 2008

With consent:

/s William K. McVick
Counsel to General Insurance Company of
America
Johnson & Bell, Ltd.
33 West Monroe Street
27th Floor
Chicago, IL 60603
(312) 984-0229
Bar ID number 1871307

/s Lawrence B. Ordower
Counsel to Clark Mall Corp. d/b/a Discount
Mega Mall Corp., Kyun Hee Park and
Jennifer Park
Ordower & Ordower PC
One North LaSalle Street
Suite 1300
Chicago, IL 60602
(312) 263-5122
Bar ID number 2115328

#1897345